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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/045,937	10/19/2001	David J. Beebe	282.020	4878

23598 7590 12/28/2005

BOYLE FREDRICKSON NEWHOLM STEIN & GRATZ, S.C.
250 E. WISCONSIN AVENUE
SUITE 1030
MILWAUKEE, WI 53202

EXAMINER

ALEXANDER, LYLE

ART UNIT	PAPER NUMBER
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1743

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/045,937

Applicant(s)

BEEBE ET AL.

Examiner

Lyle A. Alexander

Art Unit

1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10, 13-29 and 31-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10, 13-29 and 31-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

The Office notes the 10/13/05 amendments do not conform with current practice. Specifically, on page 1 of the amendments claim 15 is indicated as being both amended and also canceled. For the purposes of examination it will be assumed Applicants' intended the amended version of claim 15 to be examined. Appropriate correction is suggested in the next communication.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 10, 13-29 and 31-36 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by McDewitt et al. (2003/0064422).

See the appropriate paragraph of the 7/15/05 Office action.

Claims 10, 17-21, 24-29,31 and 33-36 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tiru et al. (USP 4,149,852).

See the appropriate paragraph of the 7/15/05 Office action.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 10,13-29 and 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beebe et al. (USP 6,488,872).

See the appropriate paragraph of the 7/15/05 Office action.

Response to Arguments

Applicant's arguments filed 10/13/05 have been fully considered but they are not persuasive.

Applicants' traverse the rejections over McDevitt on the basis this references teaches a receptor "bound" to a polymer resin whereas the instant invention requires "mixing of a dye". The act of binding the receptor to the polymer requires mixing the receptor with the polymer (e.g. it must be mixed to facilitate the binding) and has been properly read on the instant claims.

Applicants' state Tiru et al. fail to teach a polymerizing mixture. The freezing of the mixture has been read on the claimed polymer mixture.

Applicants' argue Beebe et al. fails to teach mixing of a dye with a polymer and adding the mixture to a microfluidic device. Hydrogel(102) has been mixed with a pH sensitive material. The hydrogel has been read on the claimed polymer that is mixed with the pH sensitive material.

Applicants urge that because the above 35 USC 102 rejections are improper, then the 35 USC 103 rejections are also improper. The Office maintains all of the rejections of record are proper.

Applicants' reference claim 29 and state none of the cited prior art teach a structure with an immobilized dye entrapped therein and that includes a polymerized mixture. The Office maintains all of the cited references teach microfluidic devices with a polymer mixed with an indicator and have been properly read on the instant claims.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lyle A. Alexander whose telephone number is 571-272-1254. The examiner can normally be reached on Monday, Wednesday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on 571-272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lyle A Alexander
Primary Examiner
Art Unit 1743

